

REMARKS/ARGUMENTS

APPLICANTS' TRAVERSE OF RESTRICTION REQUIREMENT

Claims 1, 2, and 3 withdrawn under the first Restriction Requirement are Reinstated. Claim 4 is further amended. New claim 6 is presented. New claim 6 is a dependent claim. It contains several species of amended claim 4.

RESTRICTION REQUIREMENT

Applicant understands the present restriction requirement to be in the nature of a species election under 37 CFR 1.146 for the purpose of examination. The restriction is between inventions that are different enzymes, while separate and different claims are not divided into separate groups, such as between product and process.

Reasons Presented

The Examiner requires a restriction, concluding that the inventions (not the claims) are distinct because:

1. The inventions have acquired a separate status in the art as shown by their different classifications and recognized divergent subject matter.
2. The groups are drawn to different enzymes with different sequences that have different function and structures.

ELECTION AND TRAVERSE

Applicants elect Group IV with traverse. Applicants respectfully disagree with the grounds upon which the restriction is made. The following reasons for this disagreement are presented.

Applicant's Arguments

- a) The Examiner states that all of the enzymes are classified in Class 435 without regard to subclass. Therefore, his argument is contradicted by his supporting evidence. Therefore, a *prima facie* case for restriction has not been made.

- b) All of the enzymes listed in the dependent claims are collectively esterases and hydrolases, and therefore share a common classification in the art and the method set forth in the claims is found only in the plant viral vector art. The majority of cases in this art have the following classes and subclasses in common. **435/69.7; 435/235.1; 435/252.3; 435/252.33; 435/320.1; 536/23; 800/278; 800/288**
- c) The number of species presented is reasonable.
- d) MPEP 803 states “If the search and examination of **>all** the claims in an application can be made without serious burden, the examiner must examine **>them** on the merits, even though **>they** include claims to independent or distinct inventions.” MPEP 803 I states “If the search and examination of **>all** the claims in an application can be made without serious burden, the examiner must examine **>them** on the merits, even though **>they** include claims to independent or distinct inventions.”

Accordingly, because a) the enzymes are classified as hydrolases and esterases, and because they have Not acquired a separate status in the art, but share a common classification for purposes of examination, and because b) the number of species presented is reasonable, Applicants respectfully request reconsideration, and withdrawal, or modification of the Restriction Requirement.

In the event this restriction requirement is made final, Applicants respectfully request that if the generic claims are found to be allowable that any withdrawn species or subcombination be rejoined to the application and also found allowable.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. Examination and issuance of a formal Notice of Allowance at an early date is respectfully requested. If any other issues remain, the examiner is invited to call the undersigned for prompt resolution of the matter.

Respectfully submitted,

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/Thomas Gallegos/

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